

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 1/5/2011. Currently, claims 1, 3, and 5-19 are pending.

#### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, and 5-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear how “all of the refrigerant which flows into the inlet header through the inlet flows obliquely upward.” It appears the some of the fluid would flow obliquely upward, however other refrigerant would simply spill over the guide instead of first hitting the bottom of the guide and then flowing obliquely upward.

Claims 3, and 5-19 are rejected as being dependent from a rejected independent claim.

#### **Allowable Subject Matter**

4. Claims 1, 3, and 5-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action. The Examiner suggests placing language in the claim which does not require ALL of the refrigerant which flows in the inlet to flow obliquely upward once hitting the guide, since some of the refrigerant entering through the inlet would simply spill over the guide and not contact it at all, let alone flow obliquely upward.

**Remarks**

5. The Examiner spoke with Mr. Akihiro Yamazaki (Applicant's attorney) on 3/14/2011 (see attached interview summary). No agreement was reached regarding claim language which would overcome the 112 2nd rejection, however the Examiner suggested to applicant to call back for an interview once the Office Action was discussed with the client so as to maintain compact prosecution.

6. The Examiner would like to remind applicant of his duty to disclose information under 37 CFR 105. The Examiner has found many pertinent references by applicant (Higashiyama), which were not cited to the Examiner. If applicant is aware of any additional pertinent patents or publications, which the Examiner has not already cited, the Examiner would greatly appreciate the submission of them.

**Response to Arguments**

7. Applicant's arguments with respect to claims 1, 3, and 5-19 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Higashiyama (U.S. Patent No. 7,896,066 B2) discusses a Heat exchanger with a guide. Shimmura et al. (U.S. Patent No. 5,934,367) discusses a heat exchanger.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON M. ROSATI whose telephone number is (571)270-3536. The examiner can normally be reached on Monday-Friday 8:00am- 4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BMR  
3/11/2011

/Cheryl J. Tyler/  
Supervisory Patent Examiner, Art Unit  
3744